

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SHERRI A. ROESSING and DAVID ROESSING,
Her husband,
1620 Main Drive
Altoona, PA 16602

VS.

UNITED STATES OF AMERICA
c/o Attorney General for the United
States of America
U.S. Department of Justice
10th Street and Constitution Avenue, NW
Room B324
Washington, DC 20530

CIVIL ACTION - LAW

NO.

JURY TRIAL DEMANDED

COMPLAINT

The Plaintiffs, Sherri A. Roessing and David Roessing, as their complaint against Defendant, United States of America (“Defendant”), alleges as follows:

Nature of the Action

1. This is an action for money damages for personal injuries arising from the negligent or wrongful acts of Defendant, through its agency, the United States Postal Service ("USPS"), acting through its employees in failing to keep the premises known as the Altoona Post Office located at 1201 11th Avenue, Altoona, Blair County, Pennsylvania free and clear of defects and in good repair. On February 8, 2018, wife-Plaintiff was about to enter the Altoona Post Office when she fell to the ground due to an accumulation of ice and snow on the sidewalk/ramp to the main entrance and suffered severe and permanent injuries. Defendant United States is liable for its negligent acts and omissions alleged herein in the same manner and to the same

extent as a private individual would be liable under like circumstances, in accordance with the law of the Commonwealth of Pennsylvania.

Parties

2. At all times material hereto, Plaintiffs Sherri A. Roessing and David Roessing resided at 1620 Main Drive, Altoona, Blair County, Pennsylvania, 16602, which is within the Western District of Pennsylvania.

3. At all times material hereto, Defendant, United States of America, acting through the United States Postal Service, an agency of the United States of America, was in possession and control of a post office located at 1201 11th Avenue, Altoona, Blair County, Pennsylvania.

Jurisdiction and Venue

4. This action arises under the Federal Tort Claims Act, 28 U.S.C.A. §§2671-2680. This Court is vested with jurisdiction pursuant to 28 U.S.C.A. §1346(b).

5. On October 9, 2018, Plaintiff timely filed an administrative claim pursuant to the Federal Tort Claims Act with the USPS. See Exhibit A attached hereto.

6. On February 19, 2019, the USPS denied Plaintiff's claim. This action is timely filed pursuant to 28 U.S.C.A. §2401(b). See Exhibit B attached hereto.

7. Venue is proper in this District pursuant to 28 U.S.C.A. §1402(b) because Plaintiff resides in this District, and the acts or omissions complained of occurred in this District.

Claim for Negligence

8. On February 9, 2018, and at all times material hereto, Defendant, through its agency, the USPS, was in possession and control of a post office located at 1201 11th Avenue, Altoona, Pennsylvania.

9. At all times material hereto, employees of the USPS had a duty to inspect, maintain and keep the post office premises free and clear of ice and snow in the walking surfaces at entrances/exits and were otherwise responsible for keeping the premises in a condition reasonably safe for the use of invitees and visitors, including wife-Plaintiff Sherri Roessing.

10. On February 8, 2018, Plaintiff Sherri Roessing was lawfully on the premises of the Altoona Post Office and was exercising due care for her own safety while proceeding to the entrance of the post office when she slipped and fell on ice and snow on the entranceway/ramp which resulted in a dangerous condition for persons on the post office premises.

11. The fall resulting in injuries to wife-Plaintiff Sherri Roessing was caused by the negligence of Defendant, through its agency the USPS and its employees acting within the scope of their employment and consisted of the following acts or omissions:

- a. had a legal obligation to the Plaintiff to keep the premises safe and free from hazards and defects, but failed to fulfill that obligation;
- b. allowed the defective and dangerous condition previously described to exist;

c. failed to correct the condition previously described, despite actual or constructive notice thereof;

d. maintained the area in a condition that was in violation of the applicable ordinances of Altoona;

e. failed to insure that the sidewalk/ramp at the entrance/exit to the post office building was not unusually hazardous due to an accumulation of ice and snow;

f. failed to give the Plaintiff warning of the condition;

g. failed to remove the ice and snow or salt the area.

12. As a result of the negligence and carelessness of the Defendant, Plaintiff Sherri Roessing suffered a fracture of a finger on her left hand necessitating a splint for fixation. Additionally, she injured her knees bilaterally.

13. As a result of the negligence and carelessness of Defendant, Plaintiff Sherri Roessing has been and will continue to be subject to further medical procedures and treatment along with any accompanying risks, hazards, pain, suffering, discomfort and economic losses associated therewith, including medical bills, all to her detriment and loss.

14. As a further result of the negligence of Defendant and the injuries suffered as a result thereof, Plaintiff Sherri Roessing has been prevented from attending to her usual daily routines, duties and occupations, and may be prevented from doing the same in the future to her great detriment and loss. Her husband, David Roessing, has suffered a loss of consortium due to the wife-Plaintiff's injuries.

WHEREFORE, Plaintiffs demand judgment against Defendant United States of America in an amount which would reasonably and properly compensate them in accordance with the laws of the Commonwealth of Pennsylvania, together with interest and costs of suit.

Respectfully submitted,

By: 

Kevin R. Lomupo, Esquire
Attorney for Plaintiffs

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Dated: October 2, 2019

VERIFICATION

I, Kevin R. Lomupo, Esquire, hereby state that I am counsel to the plaintiff herein, and am authorized to make this verification on the plaintiff's behalf. I make this verification because the statements set forth in the foregoing **Complaint** are uniquely known to me based on knowledge, information and belief.

I verify that the statements made in the foregoing pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to 18 Pa. C.S. §4904 providing for criminal penalties for unsworn falsification to authorities.



Kevin R. Lomupo, Esquire
Counsel for Plaintiffs

DATE: October 2, 2019